

Decision 05-08-029 August 25, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy
and Program Coordination and Integration in
Electric Utility Resource Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)

**OPINION ON PETITION FOR
MODIFICATION OF DECISION 05-03-013**

1. Summary

The uncontested petition of Modesto Irrigation District (Modesto) and the City of Corona (Corona) for modification of Decision (D.) 05-03-013 is granted. Ordering Paragraph 1 of that decision is modified by the insertion of language that clarifies the Commission's intent in naming electric service providers (ESPs) and community choice aggregators (CCAs) respondents in this proceeding.

2. Background

D.05-03-013 determined that ESPs and CCAs that are registered to serve retail customers within the service territory of one or more of the three major California investor-owned electric utilities (IOUs) are subject to the jurisdiction of this Commission with respect to resource adequacy requirements (RAR). In addition, the decision modified the April 1, 2004 Order Instituting Rulemaking (OIR) by naming registered ESPs and CCAs as respondents to this proceeding.

In a petition for modification filed on June 9, 2005, Modesto and Corona request that Ordering Paragraph 1 of D.05-03-013 be modified by the insertion of the wording shown in bold italics below:

Each Energy Service Provider (ESP) and each Community Choice Aggregator (CCA) that is registered to serve retail customers within the service territory of one or more of the three respondent investor-owned utilities is subject to the jurisdiction of this Commission with respect to resource adequacy requirements ***to meet the demand of the retail customers that it services through DA or CCA transactions,*** and is hereby named as a respondent to this proceeding ***solely for that purpose.***

3. Discussion

Modesto and Corona are both “local publicly owned electric utilities” as defined in Section 9604, and both of them are registered ESPs.¹ Modesto provides retail electric distribution service to over 100,000 customers in Stanislaus County. In addition, pursuant to Section 9610, Modesto shares a service territory with Pacific Gas and Electric Company (PG&E) in an area of 400 square miles (Joint Electric Distribution Service area) which lies immediately to the north of its traditional service area. Modesto does not serve any load through direct access transactions at this time. Corona serves retail electric customers both through its own distribution system and through direct access.

Modesto is concerned that language in D.05-03-013 is overly broad and might be interpreted by some parties to extend the Commission’s jurisdiction beyond the intended direct access and CCA situations. In particular, Modesto is concerned that parties may interpret the decision as extending the Commission’s jurisdiction to Modesto’s electric distribution system in the Joint Electric Distribution Service Area simply because Modesto is coincidentally a registered, though inactive, ESP. Corona is likewise concerned that the Commission’s

¹ Section references herein are to the Public Utilities Code.

statement regarding its jurisdiction is overly broad, and believes that the Commission should clearly articulate the limited extent of its jurisdiction with regard to direct access, particularly with respect to non-jurisdictional publicly-owned utilities that also happen to be ESPs.

In naming registered ESPs as respondents to this proceeding, it was not our intent to extend our jurisdiction to non-direct access services of publicly-owned utilities that also happen to be ESPs. The proposed modifications to Ordering Paragraph 1 of D.05-03-013 make clear that, with respect to RAR, the Commission's jurisdiction over ESPs extends only to direct access transactions. Likewise, with respect to CCAs, the modifications make clear that we are exercising our jurisdiction with respect to CCA transactions. In summary, the proposed modifications are consistent with our intent to subject direct access and CCA transactions to RAR, and they provide clarification regarding our jurisdiction with respect to ESPs and CCAs. The proposed modifications will therefore be adopted. We will also change "energy service provider" to "electric service provider" to reflect the statutory definitions in §§ 218.3 and 394(a).

4. Public Review and Comment

This is an uncontested matter where the decision grants the relief requested. Accordingly, pursuant to Rule 77.7 (f) (2) of the Rules of Practice and Procedure, review and comment on the draft decision is waived.

5. Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Mark S. Wetzell is the assigned ALJ for the RAR portion of this proceeding.

Findings of Fact

1. The modifications proposed by Modesto and Corona are consistent with our intent regarding the exercise of our jurisdiction over ESPs and CCAs for purposes of resource adequacy, and they provide clarification regarding such intent.
2. This is an uncontested matter where the decision grants the relief requested.

Conclusion of Law

D.05-03-013 should be modified as proposed to clarify our intent to exercise our jurisdiction regarding ESPs and CCAs for purposes of RAR.

O R D E R

IT IS ORDERED that:

1. The petition of Modesto Irrigation District and City of Corona is granted as set forth herein.
2. Ordering Paragraph 1 of Decision 05-03-013 is modified to read as follows:
Each electric service provider (ESP) and each community choice aggregator (CCA) that is registered to serve retail customers within the service territory of one or more of the three respondent investor-owned utilities is subject to the jurisdiction of this Commission with respect to resource adequacy requirements to meet the demand of the retail customers that it services through direct access or CCA transactions, and is hereby named as a respondent to this proceeding solely for that purpose.
3. Review and comment on the draft decision is waived.
4. Rulemaking 04-04-003 remains open.

This order is effective today.

Dated August 25, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners